

**ENTERED**

August 07, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISIONRICKY A. JOHNSON,  
*Plaintiff,*

v.

DEUCE BODY SHOP,  
*Defendant.*§  
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CIVIL ACTION No. 4:24-CV-01867

**MEMORANDUM AND RECOMMENDATION**

This case, in which Plaintiff is appearing pro se, was referred to the undersigned Magistrate Judge on May 29, 2024. ECF 3. Plaintiff's Complaint asserts a negligence claim against Defendant Deuce Body Shop relating to repairs conducted on Plaintiff's vehicle. ECF 1 at 4.

On June 10, 2024, the Court issued an order explaining that Plaintiff's Complaint does not adequately plead the subject matter jurisdiction of this Court. ECF 6. Plaintiff was ordered to demonstrate federal subject matter jurisdiction by filing an Amended Complaint on or before July 1, 2024. *Id.* The June 10 Order notified Plaintiff that failure to do so "will result in a recommendation to the District Judge that this case be dismissed without prejudice." *Id.* at 2. Plaintiff has made no such filing and the time for doing so has passed. On July 26, 2024, Plaintiff filed a "Motion to Burten [sic] of Proof" which, even if construed as a response to the June 10 Order, confirms Plaintiff is asserting a negligence cause of action and contains

no basis for federal subject matter jurisdiction. ECF 7. The Court therefore RECOMMENDS that this case be dismissed without prejudice for lack of subject matter jurisdiction.

The Clerk of the Court shall send copies of the memorandum and recommendation to the respective parties, who will then have fourteen days to file written objections, pursuant to 28 U.S.C. § 636(b)(1)(C). Failure to file written objections within the time period provided will bar an aggrieved party from attacking the factual findings and legal conclusions on appeal. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc), superseded by statute on other grounds.

Signed on August 07, 2024, at Houston, Texas.

  
Christina A. Bryan  
United States Magistrate Judge